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## STUDIES IN CIVIL SERVICE OF APPOINTMENT AND REMOVAL

BY  
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*STUDIES IN CIVIL SERVICE*

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OF

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## INTRODUCTION.

SINCE a wise and economical administration of the Government cannot be had without administrative servants who are at once capable, honest, and faithful, it is clearly of first importance that the power of appointment and that of removal shall be exercised in accordance with definite and just principles.

The early Presidents, without other guide or constraining force than an enlightened judgment and high convictions of duty, made practical recognition of this truth, and one of them also left to his successors the broad and simple rules by which he was himself governed in the use of those prerogatives. Office was a public trust, committed to each

appointee in the name of the whole people, and for their behoof.

To-day, the case is somewhat different. While it is not denied that Government office is a public trust, it is in fact committed to the appointee in the name of the dominant party, to be administered, not without regard to the general weal, but for the special advantage of that party, and above all for its perpetuation in power.

It is easy to decide, without an appeal to history, which of these two practices is calculated to yield the better results. And yet, it is difficult to bring about an abandonment of the one, and a return to the other. This paper (being the substance of two papers read before the Wyoming Academy of Sciences, Arts, and Letters) is an attempt, not only to mark out the way back to the patriotic practice of the Fathers, but also to encourage the adoption of principles, and the enactment of laws, that shall hold all future administrations to proper standards. Should the attempt in part fail, it may, nevertheless, prove useful to the cause of good govern-

ment, by again turning public attention to the great importance of a systematic organization of the civil service on a basis so rational as to gain general acceptance. The writer has also in view the now imminent transfer of power from one great party to another, with the grand opportunity thus offered for the incoming party, while justly establishing itself in the necessary control, at the same time, if really so disposed, to reinaugurate the wise policy of the eminent founder of that party as to choice and change of administrative agents.

It is not denied that, under a free government, political parties are unavoidable. Where there is freedom of thought and action, there will of necessity be different views on political questions, and the co-operation of those who agree for the attainment of practical results. Parties are not, therefore, of necessity, evil. So long as they confine themselves to struggles for the ascendancy of principles, there can be no danger in the conflicts between them. Held in proper check, and maintained in normal conditions,



## CHAPTER I.

### OF APPOINTMENT.

IN a republic, based on the equality of citizens, there should be no favoritism. The honor and advantage of serving the State are to be equally open to all qualified citizens, with no other restriction or condition than that, when more candidates apply than are needed, the best qualified and most deserving shall be preferred. The order here observed—qualifications first and deserts afterward—follows from the universally accepted principle that the Government, which represents not only the will of the whole people but also the great ideas on which the Government rests, has claims paramount to all other ; the rights of the individual being of necessity subordinate to the established rights of that great body of citizens, the Nation.

These views accepted, it will appear that no rule of selection for the public service can be either wise or just which does not open

the door to the most equal competition ; for this at once insures to the country the best available service, while fully recognizing merit as the only passport to places under the Government.

Let us inquire, then, how the competitive principle should be applied. The tests of merit will of necessity be different for different classes of public servants. For all whose duties are to be of such character that their qualifications may be fairly determined by a preliminary examination of the candidates, supplemented by actual trial for a brief period, the case is simple enough. Party considerations do not properly enter, since the duties to be performed have no necessary relation to party issues. It is here, accordingly, that the work of reform began. And not alone because of its comparative simplicity : it was naturally assumed that opposition to any attempt to regulate appointments would be less in the clerical than in the higher divisions of the service. The lowest was also the logical point for a beginning.

It is a ground for congratulations that the advance step thus taken has not been lost—that even the limited measure inaugurated with so much conscientious effort during the administration of President Grant did not utterly fail, but, having received further use by his successors, has at length, with the help of Congress, been much improved and more fully applied.

But the clerical division of the service has hitherto received an amount of attention wholly disproportionate to its relative importance. The competitive *principle* should not be limited to clerkships and cadetships. It should have a much wider, indeed a universal, application. It is not claimed that the higher Government officers should be filled by the competitive examination of candidates. The duties to be performed by the incumbents of them are not simply routine, but administrative; demanding such natural qualifications as must be personally known, either to the appointing power or to persons whose indorsement is considered a guarantee of capacity and trustworthiness. The peo-

ple have the right, however, to demand that all appointments, even the highest, shall be made on the principle that ability, integrity, special adaptation, and special attainments wherever necessary to a proper discharge of the duties to be imposed, are absolutely essential, and hence paramount to all considerations of mere party relationship or partisan service.

The only reason this right of the people is not now enforced is, that, on the one hand, there is a lack of appreciation of what it involves, and, on the other, the powerful opposition of party interest and party prejudice. Herein we have the secret of both the unsoundness and the inefficiency of the public service, be it national, state, or municipal. And the more we examine into causes the more we shall be convinced that these evils result even more from moral deficiencies that could be avoided, if proper standards were maintained, than from vices purely political. Neither the people nor their administrative servants have yet wholly discarded the theory that a man may be corrupt in private life, and

yet worthy of all confidence in political relations—a theory without foundation in either philosophy or experience, which imperils the public interests by increasing the risk from malfeasance, while diminishing the incentives to morality, and even fatally poisoning the very sources of both private and public virtue.

As a consequence of both of these causes—the lack of morality and the excess of partisan zeal—most unfit men are often found in the Government service ; judges unsuited to the responsibilities of the bench ; ministers, intrusted with the national peace and priceless honor, who are not only deficient in both aptitude and special preparation, but whose conspicuous acts have been in flagrant violation of the most sacred obligations ; consular agents with but little idea of the nature of the service, and with total ignorance of the language they are expected to use ; and even heads of departments chosen with less reference to special fitness than to clamorous demands based wholly on party service or local ~~and~~ <sup>and</sup> selfishness. Here is a wide and most impor-

tant field in which the Executive is supreme—one in which, practising on the principle of *country first and party afterward*, he may do much to establish the world's confidence in the wisdom, stability, and economy of republican institutions.

Practical reform in appointment to offices of the higher grade is of course difficult, since the duties to be performed are such as demand superiority of judgment, discretion and administrative ability, coupled with tried integrity. Here no ordinary examination test will suffice. I do not mean that direct examination would be wholly useless; on the contrary, it might and should be employed in the case of several important classes of officials, especially those needing qualifications not so capable of being vouched for by the average witness—in the case of all officers whose duties are of a nature to require much special preparation, and which in rank are below those controlled by the President as a means of carrying out the policy of his administration. But such examinations to settle the question of requisite attainments

could in no case more than supplement the other inquiries yet more necessary.

Evidence of qualifications, if not already in possession of the appointing power, must be furnished by the candidate, or by those who seek his appointment. Upon the appointing officer rests the responsibility of carefully examining the evidence presented, and of deciding between competing candidates with the most absolute impartiality, and with an eye single to the best good of the service.

True, there are circumstances that may properly qualify this general rule, and among them the following :

1. When the place to be filled is one the incumbent of which must of necessity be in harmony with the Executive upon government measures, it is clear that he is authorized to treat such accordance as a special condition of appointment.

2. There are geographical considerations which may be allowed to influence an appointment, outside of the qualifications of

candidates ; it being just that all portions of the country should share as equally as possible in the service of the Government.

3. Important sacrifices made, as well as valuable services rendered to the country, should be allowed due weight in deciding the issue ; for sacrifices and services constitute deserts, which are recognized in the governing rule already laid down, that “ the best qualified and most deserving shall be preferred.”

4. Last of all, great public exigencies may sometimes justly control a decision ; as when the restoration of peace between opposing factions of a great party whose unity is deemed essential requires a generous compromise ; or when the restoration of harmony between great divisions of the common country demands signal evidence of magnanimity and good-will.

Of course none of these circumstances, or any other, would justify the appointment of persons less than competent, or wanting in those qualities which of themselves are able to command the respect and confidence of

the public. On the contrary, the Executive is especially bound to use the utmost care in making his selections, in view of the keen scrutiny certain to be directed to acts in violation of governing rules used in disregard of popular prejudice.

Beyond considerations like these, the Executive should be absolutely under the law of impartial judgment.

Of party services as a claim to consideration, it should be remarked that, in all cases where the issues between parties are radical and vital, they may be treated as services to country. For if the victorious party may claim to represent correct principles—and for the time being the fact of victory must be accepted as a popular ruling in favor of the principles it upholds—then it has the right, under proper restrictions, to recognize services rendered in securing to them the ascendancy. Nay more, it is the duty of a party, other things being equal, to prefer those who have made important sacrifices to give to its principles practical force and efficiency. This is

at once justice to those who have patriotically labored and sacrificed, and a legitimate means of insuring unity and efficiency of administration, as well as that continued ascendancy of principles believed to be essential to the welfare of the country. The wrong in our past has been that party service has so often outweighed all other considerations—that the intense partisan has been provided for at all hazards, and solely because of his efficiency in operating the party machinery.

But it must not be forgotten that the greater danger is on the side of partisanship, not on that of a patriotic impartiality. As for the minor places, they have no necessary relation to party at all; and the leading offices belong to the victorious party only in just so far as they are essential to give practical force to its principles. A single step beyond this must be followed by two evils: First, the party will, by that step, have shown itself a party of spoils rather than of principles, and so have lost much of its moral influence. Secondly, it will have sanctioned a spirit of sordid partisanship,

which is ever subversive of justice, demoralizing to the patriotic sentiments of the people, and hence dangerous to liberty.

From the use of the appointing power in the primary interest of party there is but one step to the use of patronage as a perquisite of the executive office. It is bad enough when an Executive is the pliant servant of his party to the extent of ignoring both public interests and private, that it may batten on the spoils of office. It is even worse when he finds it easy to forget both country and party and to treat the places created solely for the public convenience and advantage as belonging to himself and to be used in discharging private obligations or as a means of gratifying his affection for his kindred or his personal friends. Reasons have been given why the President cannot be subjected to unyielding rules in the choice of persons to assist in discharging the more responsible duties of the executive branch of the Government. But for that very reason he should feel that he is to per-

form these duties of appointment as a sacred trust. He is there to serve the whole people and the interests of good government, and may serve his party only in perfect consistency therewith. How much more should he hold himself superior to the influence of mere personal considerations !

There is but one exception to the rigid rule that, in making appointments, the personal preferences of the Executive must not be allowed to affect his decisions in the least degree. I refer to the choice of his constitutional advisers and of his own immediate subordinates in the executive office. These together constitute the official family of the President, and may be chosen with some reference to agreeable personal relations. Outside of this small circle he is amenable to the law of absolute impartiality. But that is a law whose only possible sanction is the popular condemnation ; and hence there should be widely inculcated a sentiment that will make it impossible for a President to forget that he is but the servant of the people ; for the time being clothed with

high powers, but yet held to a most strict and solemn responsibility—that self-gratification at the expense of justice and of the public good is a crime against the Republic.

For determining the fitness of candidates for mere clerkships there may be no better authority or agency than that which the President and Congress have vested in a central Commission with local boards, composed of eminent men, chosen on account of fitness and without regard to party affiliations. As for the places which must be subject to the discretion of the President, the case is not so easy; still, a careful inquiry will serve to make the path of safety clear.

Evidence of the fitness of candidates for office will be earnestly sought by any President or head of department really anxious to secure the best service and do justice to those who apply. Under the system, or no-system, so long in use, the evidence has very generally come through Senators and Representatives. But to this method there are objections so serious as to properly consti-

tute a bar to its use ; for, as more than one recent President has pointed out, the practice strongly tends to a confusion of the duties and prerogatives of the legislative and executive departments of the Government, while at the same time increasing the dangers to the public service.

In view of these objections, it has been proposed that Senators and Representatives be restricted to the privilege of simply witnessing to the fitness of candidates ; it being generally conceded that pressure or aught else beyond a statement of the qualifications and deserts of a candidate is improper. Indeed, a distinguished Senator has even proposed that Congress should, by a stringent law, prohibit all interference of its members with the prerogatives of the Executive in this regard. That a proposition so extreme as this, even, is not without ground to rest on will appear from the following considerations, to wit : First, participation in the responsibilities of the Executive, even to the extent of acting as a witness only, must be at some sacrifice of what properly and of

necessity belongs to the position of a legislator. Second, such participation, if allowed to be a prerogative of office, is not likely to be exercised wholly within the prescribed limit ; for the reason that many, if not the majority, of such witnesses would very certainly transcend that limit and invade the province of the Executive with personal or political pressure, or with both. Third, as a consequence of such pressure, we shall be liable to three evils, namely : (1) in many cases, an unbroken series of unwarrantable practices in the interest of the representative, extending all the way back to the primary caucus and the private plots determining its results ; (2) the invasion and practical subversion of that very principle of fair competition for which we are contending ; and (3) the exchange of votes for appointments.

These, then, are the conclusions to which we are brought :

1. While Senators and Representatives may at most be properly allowed the privilege of witnesses of fitness for office, their

testimony in support of individual candidates, if voluntary, should not extend beyond the simplest written indorsement of the formal applications presented by candidates, or the friends of candidates, to be afterward supplemented, whether in writing or in person, only upon request of the appointing power.

2. The testimony so given should be received as the testimony, not of Representatives and Senators, but of *citizens*—citizens, to be sure, who have been accredited by a constituency as worthy of public confidence, but yet who are entitled to no more practical influence in procuring appointments than other citizens whose testimony may come bearing the stamp of equal competency and credibility.

Experience might demonstrate that even this limited privilege of voluntarily testifying to the competency and worthiness of candidates for important places in the service would be an embarrassment, rather than a help to the Executive—that even the simplest testimony should be furnished upon demand

only ; but the adoption of such a rule of action by the President would be at least a great step in the right direction. It is also likely that acquiescence in it by Senators and Members would result in such relief to them from the burdensome exactions of candidates that the further step of total prohibition would, if found desirable, be taken with their unanimous concurrence. It appears certain that the taking of this first step and its acceptance by the people, as well as by members of the national legislature, would work very important changes in every branch of the service. Besides relieving the country of officials appointed chiefly, often solely, because of party and personal service, the reform thus inaugurated would gradually change the character of the Congress ; first, by enabling the people to select their representatives with comparative freedom from the intrigues and machinations of politicians, with whom ability, purity, and knowledge of political science are of but little account as compared with coercive power in procuring appointments ; and, secondly, by allowing to the fitter men thus

chosen more time and freedom for the study and practice of true statemanship.

At first thought, one difficulty appears to lie in the way of a successful working of this plan of protecting the Executive from interference, this, namely : That the written testimonials presented by candidates under the proposed system would have no certainty of getting fairly before him, their success in so doing being wholly dependant on the impartiality of such officer and the thoroughness of his voluntary investigations. But this objection at once ignores the supreme interest the President must feel in the choice of his subordinates, and assumes that the executive department of the Government cannot succeed in the exercise of its most vital function without the constant help or intermeddling of the legislative department. To it there are at least three sufficient answers, to wit: First, completely sweep away the practice of Congressional interference, and all candidates are at once on a platform of equality, the integrity of the Executive being conceded. Second, make

the Executive wholly free and he will be held responsible for a due regard to the needs of the service, as well as for a fair distribution of the patronage at his command, for the rights of parties, and for the just claims of candidates. Third, it cannot be shown that favoritism would be increased by removing those semblances of impartiality with which a really partial President may protect himself now. There is nothing in open freedom that is calculated to increase such danger; on the contrary, entire liberty, with the increased responsibility, would afford additional guarantees of practical justice in the discharge of such trusts.

The argument is therefore strongly on the side of the proposed change. Indeed, all attempts to reform the service in this higher department without the adoption of measures that will practically assure the constitutional freedom of the Executive must of necessity fail.

What, then, are the admissible sources of information concerning the fitness of candidates?

First, the representations of responsible

citizens competent to speak from personal knowledge of the candidate and to vouch for his fitness.

Second, the testimony of Senators and Representatives, furnished in the *private capacity* and in the manner above suggested.

Third, in difficult cases, special inquiries intrusted to competent persons without special interest in the result.

Fourth, in the case of many appointments, there should be no evidence more welcome than that which may be furnished by the candidate himself, in person. For, to an Executive capable of judging of men, what more desirable than that he should see and sound the men who are candidates for his confidence? His convenience must, of course, be consulted, but there is nothing in the nature of political office that makes personal application for it improper. It is a matter of business in which the parties directly interested may often be brought face to face with great advantage.

But, assuming the patriotism, impartiality, and discriminating judgment of the Execu-

tive, and surrounding him with all the safeguards above considered, there is still less than the proper security, because of the unreliable character of so many of the testimonials presented in behalf of candidates. Men of high standing not uncommonly, through carelessness, selfishness, or want of courage, recommend persons for office who are either not sufficiently known by them or are known to be unfit for the places sought. Imposition of this sort should be avoidable in some way, and it may be worthy of consideration whether the Government should not adopt the rule of publishing, or allowing to be published, not only the names of appointees as is now done, but also the names of their chief supporters, at least in the case of such censure as should demand a justification of the Executive. This would throw the ultimate responsibility upon the vouchers—a responsibility which few men of such standing as to make their recommendations acceptable would assume without full conviction of the competency and trustworthiness of the persons indorsed.

It cannot be doubted that, if the principles and conditions thus far considered were all faithfully observed for one period of four years, the reforms so much needed would, by that time, have gained such footing as to make it very unsafe for any subsequent administration to attempt its overthrow. Still, the lesson of history is not very assuring on this head ; and, hence, to what may be thus gained Congress should add the enactment of such laws as would give the greatest possible security in that way. Laws could be repealed, of course, but no attempt to sweep them away could succeed instantly, or without giving the people time to pronounce judgment on the proposition.

In concluding the discussion of this branch of the subject, it may be well to raise the question whether, outside of the places which the Executive must himself fill, those which may with advantage be left by him to the heads of departments, and such as should be filled in accordance with the system of regulations herein proposed, there are not some classes of office in respect of which ad-

vantage would be gained by laying upon the people themselves the responsibility of designating to the appointing power, in some manner securing to each interested citizen the right of free expression, the persons by whom they would choose to be served. Allusion is made to such offices as were created and are maintained more especially for the direct benefit and convenience of the people in their individual capacity, as distinguished from those which exist primarily for the benefit of the whole people in their capacity as a nation. There are some difficulties in the way, but they do not seem to be insuperable. Under the Constitution, Congress could only authorize the designation of persons preferred. Such designation could not bind the Executive or head of department, but it may be assumed that in most cases there would be a cheerful recognition of the popular wish in a matter so almost exclusively concerning themselves as the choice of a person to serve them as postmaster. Such a method would of course curtail the power of the dominant party, but it should be remembered that the

chief object of this inquiry is to ascertain how partisanship may be diminished, as a means to a better civil service. Such a method would be in harmony with the idea of home rule in home affairs, would tend to improve the postal service, while insuring greater justice to citizens desirous of entering it, and would also diminish the cares of the President, as well as the dangers of an immense executive patronage.

Thus protected from a dangerous interference from the legislative side, in the exercise of functions constitutionally his ; thus relieved of burdens that could be borne in part by others ; and hence no longer so embarrassed by conflicting wills, nor overborne by details which now needlessly occupy him, the President would be in fact what he is now in part only, the responsible head of the Government, with due command of his powers, and with more time for the great work of wisely directing the affairs of the nation.

## CHAPTER II.

### OF REMOVAL.

Even with the present uncertain tenure of office, men of first ability and of highest worth are often induced to sacrifice private interests that they may serve the State. But the tendency of such uncertainty is to warn off the best men and to open the door to those of inferior merit. Moreover, tenure dependent on the mere will of a superior is degrading and corrupting in its influence upon those already in office. Degrading, because it tends to cowardice, servility, and sycophancy as means of keeping in place ; corrupting, because it tempts to trickery and dishonesty as means of making the most of a present opportunity. The truth of this is now so apparent that all thoughtful citizens recognize the necessity for some greater security. They also see that the system of removal at will tends to corruption in the Ex-

ecutive—begetting in him a craving for power, which naturally leads to usurpation—fixing in his mind the idea of control for his own personal advantage, or for that of his party or his friends, instead of holding his power as the trustee of the people—and thus in general divesting him of that deep sense of responsibility so absolutely essential to a faithful discharge of official duty.

Now it is apparent that a system which tends to corrupt the Executive, and is of necessity both degrading and corrupting in its influence upon the great body of government appointees, must very injuriously affect the public service. Accordingly repeated efforts are made to remedy the evil. But grave difficulties have confronted and still confront every such attempt. Differences arise among those who agree as to the importance of a change ; while between them and such as adhere to the present system the difference is almost irreconcilable. The extreme reformer insists that the principle of permanent tenure should be applied to all officials below the very few who compose the admin-

istration council; while the partisan politician demands that all civil offices shall serve as rewards for those who have fought the battles of the victorious party. Both are in part wrong. The extremist appears to forget that a general life tenure of office, with the bureaucratic evils connected with it, is opposed to the fundamental idea of a democracy, which involves that of a universal free participation in political affairs, with the utmost equality of privileges consistent with good government, and that such privileges are means to a practical familiarity with governmental affairs. On the other hand, the partisan fails to see that such sweeping changes as are favored by him would not only cripple the service every time they were made, but strongly tend to corrupt society itself by the frequent use of improper means to carry first the elections and then the appointments to office—worse than all, by turning the thoughts and energies of the youth of the country from the steady and useful pursuits to the alluring but demoralizing hazards of partisan politics.

The true ground, in the present state of things at least, lies between these two extremes, and can only be determined by the application of principles founded on reason and experience. Two elements must be considered—the service and the citizen.

As said before, the public interests must be paramount. But, in seeking for governing principles, the future should be considered as well as the present; and the future good of the country demands not only that none but fit persons shall hold office, but also that the citizen shall have every proper motive for keeping in active and intelligent relations with public affairs. The mistake of the partisan has been in supposing that this last condition could only be fulfilled by the control of all government places in the exclusive interest of the victorious party. If this were literally true, then should all hope of perpetuating free institutions be abandoned; for the two ideas involved are essentially antagonistic. A republic can only be maintained on the basis of principle. When a just pride of country, genuine de-

votion to the principles upon which the government rests, and a willingness to labor for the highest prosperity of the nation, are no longer the sentiments which animate a considerable proportion of the American people, then may we know that the end is nigh. And if any would hasten the collapse of free government let them nourish that sentiment, already alarmingly prevalent, which regards office as the chief end of politics—which assumes that government mainly exists for the benefit of those who are able to control it.

We may admit that Party has rights, that the citizen should have proper incentives to a careful study of principles, as well as to activity in their support, and yet consistently advocate a system that would limit both the influence of partisanship and the field of private ambition. We may admit that, until society has reached the ideal state, no system of civil service will be practical that ignores the necessity of affording to worthy supporters of the principles that have triumphed some share in the work of applying them, and yet point to the vast number of legis-

lative and executive offices in municipality, county, and State subject to the popular will, with the most important Federal positions, as sufficient to meet all just demands.

With this general view, and with a patriotic desire for good government, we are not likely to adopt rules of action that will foster a corrupting party selfishness, on the one hand, nor, on the other, to lose sight of the simple truth that principles are safest in the guardianship of those who love and cherish them. Viewing the subject of removal from this standpoint, and with due regard to both the elements involved, we may hope to reach just conclusions.

All government positions are divisible into three classes, namely :

1. Those places wherein harmony and vigor of the administration require its policy to be enforced.
2. Those which demand experience, or special qualifications, or both, for the discharge of their duties.
3. Those the duties of which are easy of

mastery, and may be readily taken up by any one of many intelligent citizens, or those the duties in which, being professional, may be at once assumed by any competent member of the profession to which they relate.

To the first class belong cabinet officers and such of their chief subordinates as are either of necessity clothed with large discretionary powers in matters subject to the will of the Executive or, being intrusted with important administrative duties, are expected to represent his will. As it is imperative that all these shall be in harmony with the Executive, changes will of necessity be made until there is a fulfilment of this condition. So much is clearly demanded in the interest of government as such, and of the principles which a constitutional majority of the people have declared shall govern in the administration of the national affairs.

The foreign missions sustain a mixed relation to the question of removal. That they have been less useful, as well as less ornamental, than might have been the case with a different constitution of the service and of

the diplomatic corps is admitted. But this fact does not afford a reason for abolishing the places altogether, as some have proposed. It rather becomes a reason for a recast of the service and the adoption of just principles and rules for its use. We have not only selected men for diplomatic posts with but little regard for natural qualifications, general culture, or special attainments, but we have made changes in a like reckless manner. Exigencies may sometimes demand the temporary suspension of a rule, but as the service is one in which experience is valuable, the President should allow a reasonable term to all appointees who have shown themselves worthy, and such extraordinary or unlimited continuance in special cases as the importance of the post and the genius of the incumbent may demand. Of this principle there has been of late years an appearance of recognition in the case of some representatives at foreign courts so long continued that they could be said to have gained an exceptional footing. Still, there is no evidence that these exceptions were the result of any

well-defined policy ; for the greatest permanence has been allowed in the places of least practical importance ; while those places near the courts of foreign powers with whom we have the most important relations, and in which a greater permanence would seem desirable, have been very much used as a means of rewarding devotion to party, if not of discharging a personal obligation or gratifying a personal regard.

Where a representative of the country abroad has shown extraordinary qualifications for the diplomatic service, and is able to maintain full sympathy with his country, its institutions and people, he should be kept in that service during efficiency, both because of such qualifications and on account of the encouragement the example would give to thoroughness of preparation for, and full efficiency in, office. But, outside of the posts of greatest importance, and excepting those representatives who give evidence of both rare ability and the necessary special attainments, periodical changes, being entirely admissible on government grounds, are also

desirable as affording a field for honorable and advantageous service to such citizens as are eminently worthy and desire to serve their country in the diplomatic capacity.

The consular service belongs wholly to the second class. It differs from the diplomatic in that the duties are more routine and well defined. It is a field in which exigencies created by unexpected events play no considerable part. Moreover, it has no necessary relation to government policies—is a *business*, rather than political, service, and one in which experience is so far requisite as to render permanence, or something like it, desirable on public grounds, to say nothing of the private justice implied by a necessary change of residence, with severance of business relations and much special preparation. It is a service, then, in which examination of candidates, exceptional length of term, or indefinite term, with removal for cause and promotion for merit, should have application; though under such qualifications as would make continuance beyond a stated probationary period dependent on the manifestation of

superior fitness, and perhaps also admit of rare substitutions from outside the consular corps, in the discretion of the President. This would at once open a career for especially competent officers, and yet leave a narrow door for the admission, for important reasons, of persons especially deserving of places in the service, as well as needed by it, and yet who would not be able to enter at the lowest point, as consular clerks, in accordance with a proper general requirement.

Besides consuls, all other officers not of the political class first above mentioned, and all agents and clerks whose duties are either of a technical character, or, under the proposed system of promotions, lead up to the places having such duties, or which, being simple, are yet of such nature as to render long familiarity with the post important, should be subject to the same governing rule. This general description would include not only the various bureaus in the executive departments at Washington, but also all branches and agencies of those departments elsewhere located; such as the

custom offices, the sub-treasuries, the mints, the internal revenue, land, pension and Indian agencies, the scientific bureaus, and all post-offices of the higher grades involving the necessity for a considerable force with somewhat complex machinery. A thoroughly competent, efficient, and trustworthy incumbent of a position in any of these branches of the service, unless in the case of some the head should be considered as belonging to the first class, should be allowed to remain while full efficiency and faithfulness last, totally regardless of party affiliations or other circumstances not affecting the value of his services.

But, when exception has been made of all these, there are yet other places, belonging to the third class, wherein permanence appears to be unessential to efficiency of the service. Among them are attorneyships, marshalships, most places in the Territories, and post-offices of the lower grades (until all are virtually placed in control of the people, through the ballot). As there is propriety in a fixed term for members of the

first class, so there seems but one reason—namely, the need of cutting down the executive patronage, and that one no longer weighty after permanency is secured for places in themselves requiring it—why officers in the third class may not fall in the same category—why all who enter government positions in which neither experience nor extraordinary preparation is necessary should not understand that, although removable at any time for cause, they so enter for a definite period, and to retire at the end thereof, unless by exceptional industry, fidelity, and ability they establish special titles to continuance thereafter.

A system of tenure like this, founded on definite principles, would certainly insure a vastly better civil service than the present—better also, possibly, than a universal application of the rule of permanency, with change *for cause* only. It would be more in harmony with the spirit of American institutions, and also more easy of inauguration, since, by its very reasonableness, it would

naturally in some measure disarm that opposition which has been sufficient thus far to seriously hinder all attempts to change the existing order of things. Should experience under it demonstrate the necessity for subjecting places of the third class, or any of them, to the rule governing those of the second, this could then be effected by a single stroke of legislation.

The scope of this writing does not admit of further particularization ; its object being to gain recognition for general principles and for such distinctions as should make their application easy in the hands of a competent commission charged with the duty of maturing a wise and complete general system for the government service—principles, moreover, which, when definitely settled and accepted, will also be equally applicable to the State and municipal governments of the country.

But to inaugurate and firmly establish a system of appointment and removal, even

like the system herein proposed, something more will be needed than the efforts and example of any single President, however able, resolute, and faithful. It is by no means certain that the patriotic example of a whole line of Presidents would be sufficient to so establish it. The forces that will antagonize any and every effort looking to the final curtailment of party power are incalculable; but we have seen that when those forces were once aroused and concentrated, the traditions of the first forty years of the Republic, with the noble example set by the Fathers, were as driftwood in that grand political freshet which during the administration of President Jackson swept them out of sight. Indeed, considering the ease and frequency with which removals from office of every class have been effected ever since the adoption of the spoils system, and without the slightest regard to either economy or justice, much less to any logical rule of action, one is struck with the total insufficiency of the plainest intent of even a constitutional provision, if capable of a favorable construc-

tion, that stands in the way of a powerful party.

When the framers of the Constitution provided that the President "shall nominate and, by and with the advice and consent of the Senate, shall appoint," etc., and, then, that he "shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session," they manifestly intended and expected those provisions to protect the service against executive encroachments in the form of removals from office without the consent of the Senate. There were public men in some of the States who, while the Constitution was under discussion with a view to its adoption or rejection, urged that it did not afford sufficient security against the arbitrary power of the Executive; but they were so promptly and forcibly met by the arguments and assurances of leading members of the Constitutional Convention, that the opposition based on that assumption was finally disarmed and silenced.

Thus Alexander Hamilton, in No. 77 of *The Federalist*, said :

The consent of that body [the Senate] would be necessary to displace as well as to appoint. A change of the chief magistrate, therefore, could not occasion so violent a revolution in the affairs of the Government as might be if he were the sole dispenser of offices. When a man in any station had given satisfactory evidence of his fitness for it, a new President would be restrained from attempting a change in favor of a person more agreeable to him by the apprehension that a discountenance of the Senate might frustrate the attempt and bring some degree of discredit upon himself. Those who can best estimate the value of a steady administration will be most disposed to prize a provision which connects the official existence of public men with the approbation or disapprobation of that body which, from the greater permanency of its own composition, will, in all probability, be less subject to inconsistency than any other member of the Government.

The same opinion was urged with great force in the first Congress, when the measures were under discussion which called attention to the absence from the Constitution of any express power of removal. It was then claimed that, since that power was nowhere conferred in direct terms, it could only be exercised by those who were expressly authorized to appoint, namely, the

President and the Senate ; and that the concession of such right to the President alone would lead to gross abuse of power and dangerous political corruption. On the other hand, there were those who insisted that the power of removal *to the extent of getting rid of incompetent and unfaithful officers* should be conceded to the President as a means to efficiency of administration. Most prominent of these was James Madison, who in the discussion said :

But the power we contend for will not enable him [the President] to do this ; for if an unworthy man be continued in office by an unworthy President, the House of Representatives can at any time impeach him and the Senate can remove him, whether the President choose or not. The danger consists merely in this : the President can displace from office a man whose merits require that he should be continued in it. What can be the motives that the President can feel for such an abuse of power, and what the restraints that operate to prevent it ? In the first place, he will be impeachable by the House before the Senate for such an act of mal-administration, for I contend that the wanton removal of meritorious officers would subject him to impeachment and removal from his own high trust.

Explanations and assurances of this sort were sufficient to secure the passage of the

bill giving the power of removal to the President, although the casting vote of the Vice-President was needed to carry it ; but they did not save the cause of good government when a man of strong will, backed by a powerful and clamorous party, assumed the reins. It seems not to have entered the minds of the advocates of that measure that party spirit could ever become strong enough to set aside the patriotic purposes and solemn assurances of the framers of the Constitution. General Jackson had himself deprecated the growth of party in a patriotic letter to James Monroe upon the election of the latter to the presidency, and was doubtless full of high intentions when he took the oath of office himself, solemnly declaring that "patronage of the Government should not be brought into conflict with the freedom of elections." And, besides, there was the example of his illustrious predecessors, who, during forty years had made less than a hundred removals, and those for valid reasons. But the undeniable necessity for some removals, in order to the change of policy

deemed important, re-enforced by the cry of Marcy in the Senate, "To the victors belong the spoils," raised so stormy a demand for place that even he of the iron will suddenly became as a reed shaken by the wind, and yielded to the extent of nearly two thousand removals for political reasons in the first years of his administration.

It thus appears that experience is a better teacher than even James Madison. Jackson yielded, not because he was less strong or less patriotic than his predecessors, but because the power of Party, at first zero, had risen, in that time of hot discussions of tariff, national bank, and other exciting questions, to the boiling point, and found in his strong convictions, resolute temper, and devotion to party principles the very elements and forces requisite to a complete partisan victory. Even Jefferson had been nearly overpowered, as he himself confessed, after making thirty-nine removals solely because at the beginning he found that he was surrounded by officials antagonistic to him on principles regarded most vital. Planting himself firmly

on the ground that "no man should be removed for mere opinion's sake," there he firmly stood to the end of his administration. But that he could have so resisted in Jackson's day is perhaps doubtful.

That the first Congress, in determining that the President should not be subjected to limiting power on the part of the Senate, did not so much as define a single condition on which the power of removal should be exercised, thus leaving him absolute, a law unto himself, except as he might be restrained by fear of impeachment, was certainly a mistake. Acceptance of the doctrine urged by Madison and others, with the supremely high character of him who was then President, was doubtless the reason for this grave omission. But if they, in the total absence of party, felt warranted in omitting to condition a power necessary in itself, yet not prescribed and defined by the Constitution, we of the present have the weightiest reasons for putting such restrictions into law as have been found essential to the public welfare.

The Congressional act of March 2, 1867—

passed over the veto of President Johnson for the special purpose of preventing an abuse of power on his part—and the act of April 5, 1869, amending the same, provide that “every person holding any civil office to which he has been or hereafter may be appointed by and with the advice and consent of the Senate, and who shall have become duly qualified to act therein, shall be entitled to hold such office during the time for which he was appointed, unless sooner removed by and with the advice and consent of the Senate, or by the appointment, with the like advice and consent, of a successor in his place;” the President having the right, however, to suspend any such officer during a recess of the Senate, as well as to substitute a person to perform his duties, subject to the approval of the Senate at the next regular session thereof. And this law, representing the views of the minority led by Hamilton in the First Congress, although it has now been in force for nearly twenty years and has had more than one severe test of its practical value, to-day finds general acquiescence. It

has defeated some appointments not fit to be made, but has in no case which the writer recalls stood arbitrarily in the way of the Executive will. Doubtless a severer test than any yet made is soon to come. But it may be expected that the Senate, duly recognizing the right of the incoming President to subordinates in harmony with his political views to the extent demanded for the inauguration and practical working out of the policy of his party, and to the farther extent of filling vacancies, as they occur, with suitable persons of the Democratic faith, will place no hindrance in the way of such legitimate use of the appointing power. And, on the other hand, it may be expected that a President, whose election is considered due to the high confidence reposed in his reformatory purposes by friends of a systematic organization of the civil service, will practise the wise moderation of a Jefferson rather than imitate the partisan zeal of a Jackson.

In a word, it is assumed that the consent of the Senate to removals will continue to be a condition as to all officers whose ap-

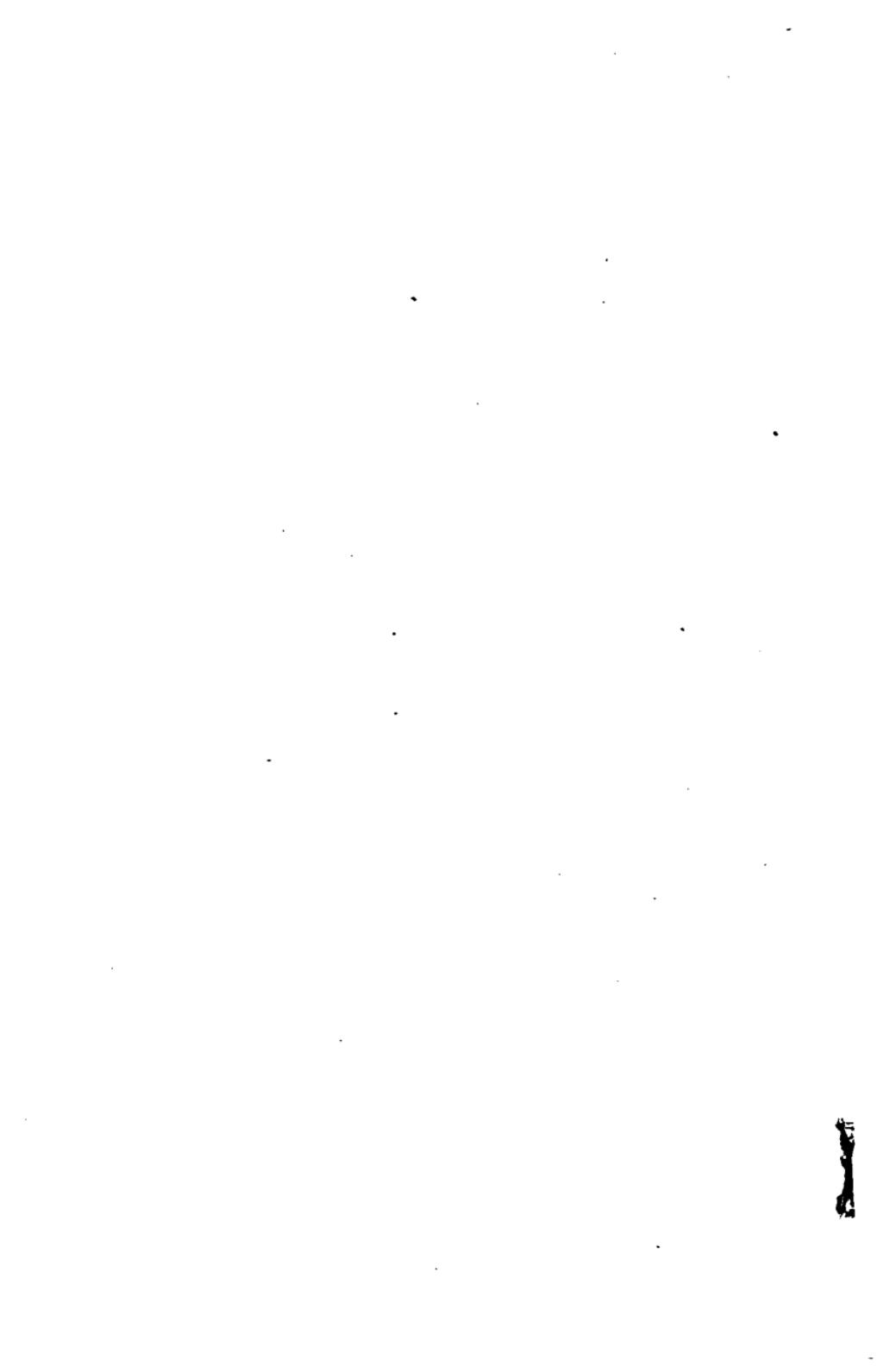
pointment was made with the advice and consent of that body. But, even with this permission, there is still something wanting, since it leaves wholly out of consideration many public servants whose appointment does not require the approval of the Senate. Besides which, it should not be overlooked as a possibility that even the Senate may at some period be partisan enough to prove no hindrance to the will of a partisan Executive but too zealously representing the demands of a party of which both they and he are members in common. A law of Congress to be effective in the interest of justice and of a good service, while securing the Executive in the right to suspend any officer found to be either incompetent or guilty of dishonesty, negligence, persistent disobedience or conduct unbecoming an officer, and, if necessary, to substitute a person to perform his duties for the time being, as also to nominate a successor, should not only require the assignment of the special reasons occasioning the removal ordered or proposed, but should also plainly define the general

reasons for which the removal of any officer belonging to either of said classes, once confirmed, may be made, even with the consent of the Senate. While the removal of officers not requiring confirmation by the Senate, as well as of all clerks and subordinates in the departments or subject thereto—clerks on probation and ordinary laborers excepted—should be possible only under a provision requiring not only the assignment of reasons, but also an impartial hearing, should an investigation be demanded. In the case of all public servants in those branches of the service subject to the rule of examination for admission and promotion for merit party incentives will have been chiefly lost, since the succession would be wholly determined by other than political considerations ; but, without any governing *law* there will still remain the possibility of arbitrary and unjust removals, with various other forms of injustice from which worthy servants of the people should be shielded.

Laws and regulations of the kind proposed would do more than merely protect faithful

public servants from unjust removal. They would naturally increase the carefulness with which appointments are made. Moreover, they would contribute to the dignity, respectability, and comfort of all subordinate positions by giving to the incumbents of them the security and consequent independence necessary to confront and expose unjust superiors, whose tyranny at present is sometimes alike intolerable to the sufferer and disgraceful to the service. They would also largely correct any undue participation of government officials in party management; since, in the first place, it is mainly to satisfy party exactions, as a condition of their own continuance in power, that so many Federal officials have cultivated an intensity of zeal and been led to the adoption of questionable, if not corrupt, practices in the manipulation of political caucuses, conventions, and campaigns; and secondly, for the reason that, being once stripped of undue influence in procuring removals and appointments, such officials would be powerless to coerce others to do their bidding, or even to reward them

for personal and partisan service. And if to the measures herein outlined there should be added the other elements of a complete system, including especially promotion for merit, the more equitable compensation of officials, and a just provision for retiring faithful servants when no longer capable of full efficiency, the value of the reform thus effected would transcend the power of computation.



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349 Valerie's Fate.....				
350 Grandfather Lick's				
351 Lays of the Scottish Valleys.....				

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